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Voting System Security 2018 Election Legislation



Senate Enrolled Act 327 (Public Law 100-2018)

General Themes:

- Concerns both “voting systems” and electronic poll books.
- Effective July 1, 2018 (some provisions already in effect; one to be implemented January 31, 2019.)
- Emphasis on controlling physical custody and greater documentation of “chain of custody”.

IC 3-11-15-56; 3-11-15-59 [New]; 3-11-15-60 [New]

SEA 327 (P.L. 100-2018)



Vendor Voting System Restrictions

- Effective immediately, vendor may not “sell, lease, or transfer possession” of voting system certified for use in Indiana, EXCEPT:
 - Indiana county;
 - VSTOP;
 - Other state or local government in US to conduct elections in that jurisdiction; or
 - Political parties for limited purpose to nominate candidates at party conventions.
- County election board may allow “supervised” use.

IC 3-11-15-60 [New]

SEA 327 (P.L. 100-2018)



Bipartisan CEB Responsibility

- Effective immediately, entire county election board (not just clerk) responsible for “care and custody” of all voting systems and electronic poll books.
- Responsibilities include:
 - Promptly notifying SOS of equipment security breach.
 - Providing additional info to VSTOP inventory.
 - Obtaining approval of “disposal plan” for obsolete, lost, or destroyed voting systems and electronic poll books.
 - Annual certification that VSTOP inventory accurate, to best of county knowledge and belief.

IC 3-11-7-20 [New]; IC 3-11-7.5-24; IC 3-11-8-10.3(c)

SEA 327 (P.L. 100-2018)



Security Breaches

- Effective immediately, county election board must file notice with SOS within 48 hours after county receives notice from federal, state, or other local government agency (county IT staff, for example) that
 - Voting System or Electronic Poll Book improperly obtained (stolen, for example).
 - Voting System or Electronic Poll Book improperly altered (installation of uncertified voting system components, malware, or tampering, for example).
- Same notice requirement applies if county notified that county's data in statewide voter registration system (SVRS) has been illegally accessed or altered
 - Unauthorized use of authentication token, for example.
 - Fraudulently altering existing voter registration records.

IC 3-11-17-7 [New]

SEA 327 (P.L. 100-2018)



Access Policies

- Effective July 1, 2018, county election board must adopt "specific access policies" setting forth who can access voting systems and electronic poll books, when they access them, and what "variations" from the policies are permitted.
 - Examples of variations might include emergency removal of endangered equipment or public safety officers/firefighters coping with emergency at facility.

IC 3-11-15-46 [New]

SEA 327 (P.L. 100-2018)



Access Policies – County Customized Option

- County access policy for voting systems and electronic poll books may be adopted by CEB by July 1, 2018. If no access policy in effect by that date, county required to comply with state law's "default access policies".
- Indiana Election Division has developed template to help county adopt customized policy.
- County customized policy must be resolution adopted by unanimous vote of CEB membership.
- County customized policy must include "audit trail" to detect unauthorized access to voting equipment.

IC 3-11-15-46

SEA 327 (P.L. 100-2018)



Access Policy – State "Default" Option

- If county has no customized access policy, then following state access requirements apply:
 - Each voting system and electronic poll book must have uniquely numbered seal prescribed by IED that "makes it impossible to access sealed part of unit without detection."
 - Voting equipment must be sealed immediately upon completion of counting of votes in election.
 - Voting equipment cannot be unsealed, unless county election board finds unsealing necessary due to specific reason identified by law.

IC 3-11-15-46

SEA 327 (P.L. 100-2018)



Access Policy – State “Default” Option

- County Election Board can order unsealing of voting equipment:
 - To conduct maintenance on equipment.
 - Prepare equipment for use in upcoming election.
 - Install new version of system hardware, firmware, or software on equipment (a certified “upgrade”).
 - To conduct public test before election, or audit afterwards.
 - To correct an error during canvassing.
 - During recount or contest proceeding.

IC 3-11-15-46

SEA 327 (P.L. 100-2018)



Access Policy – State “Default” Option

- “Re-sealing” of voting equipment required after completion of activities listed on preceding slide.
- Once county election board orders voting equipment unsealed to prepare for next election, equipment can remain unsealed until completion of canvass.

IC 3-11-15-46

SEA 327 (P.L. 100-2018)



Access Policy – State “Default” Option

- Documentation of sealing and unsealing:
- CEB must document:
 - Serial number of each voting equipment sealed or unsealed.
 - Date of sealing or unsealing.
 - Name of individual who performed the sealing or unsealing.

IC 3-11-15-46

SEA 327 (P.L. 100-2018)



County Voting Equipment Inventory – VSTOP

- Effective immediately, VSTOP voting system and electronic poll book inventory must include additional information:
 - Unique serial number which identifies each unit.
 - The location where the voting systems or electronic poll books are ordinarily stored.

IC 3-11-16-4

SEA 327 (P.L. 100-2018)



VSTOP Random Audits

- Effective immediately, VSTOP must perform random audits of electronic poll books (current law requires random audits of voting systems)

IC 3-11-16-4

SEA 327 (P.L. 100-2018)



County Voting System Disposal Plans

- Effective immediately, county must file plan with Election Division before disposing of voting systems or electronic pollbooks.
- Plan must identify serial number of equipment, and method for disposal of equipment, and state that disposal will comply with federal and state laws (record retention, for example).
- Election Division working on new form [IEC-6] for county disposal plan.
- Election Division must notify county of plan approval, and then county can dispose of equipment.

IC 3-11-15-59 [New]

SEA 327 (P.L. 100-2018)



Update and Certification of County Voting System Inventory

- Effective immediately, county must regularly provide information to VSTOP to keep voting equipment inventory current.
- Not later than January 31, 2019 (and each following January 31), CEB must certify to SOS that the information concerning its voting systems and electronic poll books is accurate, to best of county's knowledge and belief.
- Election Division working on new form [IEC-22] for annual county inventory certification.

IC 3-11-16-5 [New]

HEA 1383 (P.L. 210-2018)



Revised DRE (Touchscreen) Audit Procedures

- Beginning July 1, 2018, new procedures for audit when number of votes cast on DRE systems at precinct/vote center differ from number of voters who have received ballot, according to poll list.
- "Threshold number" which triggers audit, varies depending on number of votes cast.
- Inspector and Judge of opposite party report discrepancies to CEB, which then publishes countywide comprehensive report.
- CEB or SOS may order audit of all votes cast in precinct if discrepancy exceeds "threshold number".

IC 3-12-3.5-8

SEA 327 (P.L. 100-2018)



Absentee Ballot Envelope Intelligent Mail Barcode

- Beginning July 1, 2018, county may use Intelligent Mail Barcode Tracing (IMb tracking number) on absentee ballot envelope mailed to voter.
- Conflicting information received on this procedure, so further discussions with US Postal Service needed to clarify when IMb Tracing available.

IC 3-11-4-18

SEA 327 (P.L. 100-2018)



County Reimbursement Program for Voting Equipment Security Expenditures

- Effective immediately, SOS and Election Division may approve application to reimburse county for expenditures "made to secure and monitor facilities where voting systems and electronic poll books are stored."
- SOS and IED working on developing application to make available soon.
- VSTOP to assist with developing quantity purchase agreements (QPA) for security equipment and electronic poll books.

IC 3-6-3.7-5 [New] ; IC 3-11-16-4

SEA 327 (P.L. 100-2018)



County Reimbursement Program Factors to Consider

- Level of funding remains to be determined.
- Federal government is making \$7.1 million available to Indiana (compared with 10 times that amount [\$71 million] to implement HAVA).

IC 3-6-3.7-5 [New] ; IC 3-11-16-4

Some Thoughts on Security



- Great opportunity to increase voter confidence in the good job your county is doing to secure voting equipment, but some level of discretion wise.
- “Journey of 10,000 miles begins with a single step.” Continue discussing voting equipment security issues with CEB members, your staff, poll workers, other interested parties.
- Have initial county election board meeting before July 1 to discuss issues, begin work on security protocol.
- County security protocol is an “insurance policy” if you have recount or contest (special election) proceeding in future.